

## **R E M A R K S**

### **I. Introduction**

Claims 1-22 are pending in the application. Claims 1, 9, 11, 13, 15, 17, 19, and 21 are independent. All pending claims stand rejected for various reasons. Claims 1-6, 9, 10, 13-18, 21, and 22 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,473,7396 (hereinafter "Showghi"); claims 6 and 7 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Showghi in view of U.S. Patent No. 6,587,835 (hereinafter "Treyz"); claim 8 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Showghi in view of U.S. Patent No. 6,507,727 (hereinafter "Henrick"); and claims 11, 12, 19, and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Showghi.

Upon entry of this amendment, which is respectfully requested, claims 1, 2, 5, and 9-22 will be amended for clarification purposes, and new independent claim 23 will be added. No new matter is believed added by this amendment. Support for all clarifying amendments and for newly presented claim 23 exists in the specification and claims as originally filed, and all such matter has previously been searched by the Examiner.

Applicants respectfully request reconsideration and further examination of the pending claims in view of the arguments presented herein and in accordance with 37 CFR §1.112.

#### ***A. Summary of Claimed Embodiments***

Pending claims 1-22 generally describe systems, methods, and articles of manufacture "for providing to customers and merchants a quick and automatic way to carry out an offer, acceptance, and delivery sequence for goods" (Abstract; preamble of all independent claims). Some embodiments describe receiving a *customer's private data* from a *customer database* on a communication device associated with the customer (pg. 2, lines 3-5, 10-12; pg. 9, lines 6-10, 15-16; pg. 22, last paragraph, lines 3-4).

The *customer's private data* may include data indicative of the customer's preferences, types of merchandise previously purchased, dates of previous purchases, an identification or classification of merchandise to be purchased, special instructions regarding a transaction or merchandise, reminders, certified records that mask a customer's identity, and/or other

information related to previous or current purchases and transactions (pg. 2, lines 12-14; pg. 9, last paragraph; pg. 22, lines 8-10, and last paragraph, lines 3-4).

According to some embodiments, various devices such as a server or computer program code may *check inventory* of goods as characterized by the customer's private data. These and other novel features allow "customers and merchants to quickly and automatically carry out the offer, acceptance, and delivery sequence for goods and services" (pg. 23, lines 1-3).

***B. 35 U.S.C. §102(e) Rejections***

***1. Claim 1***

Claim 1 stands rejected under 35 U.S.C. §102(e) as being anticipated by Showghi. Applicants respectfully traverse this rejection as follows.

***a) Summary of the Cited Reference - Showghi***

Showghi generally describes "[a] system and method for enabling patrons at large-scale spectator events at confined venues having identifiable seats...to self-order food, drink and souvenir items from remote order fulfillment locations" (Abstract). The "handheld electronic communication device" used by patrons "displays or announces a full menu of items offered" (Col. 2, lines 47-49). Patrons may "select items for ordering, review the order, transmit the order, and receive confirmation that the order has been accepted for processing" (Col. 7, lines 21-23). "Thereafter, the order is filled and a delivery person delivers it to the patron at the patron's seat" (Col. 7, lines 50-51).

***b) Showghi fails to teach or suggest receiving a customer's private data from a customer database that is stored on a communication device associated with a customer***

Applicants respectfully assert that Showghi fails teach or suggest embodiments as described in amended claim 1. For example, Showghi fails to teach or suggest *receiving a customer's private data* at all, much less receiving the data *from a customer database stored on a communication device associated with a customer* (a feature generally recited in independent claims 1, 11, 13, 15, 19, and 21).

First, although Showghi does receive order information from a patron (Abstract), the information received by Showghi is limited to product selection, seat location, and payment information (Figs. 4, and 6-8; Col. 5, lines 49-56). Such information is not *a customer's private data* (as described at least at pg. 2, lines 12-14; pg. 9, lines 10-12 and last paragraph; and pg. 22, lines 8-10 and last paragraph, lines 3-4). In other words, Showghi does not describe receiving information regarding past customer purchases, customer preferences (like special instructions), and/or certified records associated with the customer (*Id.*).

Second, even if Showghi were interpreted as describing *receiving a customer's private data* (which interpretation Applicants do not agree with), no information in Showghi is received *from a customer database that is stored on a communication device associated with a customer*. The information received from the patron in Showghi (including the customer selections shown in Fig. 4) is inputted directly by the patron (Col. 7, lines 18-22). **No customer database**, much less a customer database residing on a communication device associated with a customer, is disclosed by Showghi.

Thus, Applicants respectfully assert that Showghi fails to anticipate embodiments as recited in amended claim 1 at least because Showghi fails to teach or suggest *receiving a customer's private data* at all, much less receiving the data *from a customer database stored on a communication device associated with a customer*. Accordingly, Applicants respectfully request that the §102(e) rejection of amended claim 1 be withdrawn.

Further, Applicants also respectfully assert that there is simply no suggestion or motivation in Showghi to amend or alter Showghi to provide the claimed feature of *receiving a customer's private data from a customer database that is stored on a communication device associated with a customer*.

***c) Showghi fails to teach or suggest checking inventory, based on the customer's private data, for goods***

Applicants respectfully assert that Showghi fails teach or suggest embodiments as described in amended claim 1. For example, Showghi fails to teach or suggest *checking inventory* at all, much less doing so *based on the customer's private data*, much less checking inventory based on the customer's private data that was *received from a customer database*

*stored on a communication device associated with the customer* (a feature generally recited in all independent claims).

First, although Showghi does receive orders for products and deliver them to patrons (Abstract; Col. 7, lines 50-51), Showghi does not disclose ***checking inventory***. The Examiner states that Showghi "clearly teaches a method for...checking inventory" (Paper No. 7, pg. 2, bullet 3, lines 3-4). Applicants must respectfully disagree and assert that Showghi does not describe ***checking inventory*** for the requested and/or ordered items. Showghi appears to assume that inventory will always be adequate. In other words, Showghi does not anticipate that a football stadium or other large venue will run out of hot dogs or beer. Thus, nowhere in Showghi is inventory described or even alluded to. Applicants respectfully note that the word "inventory" does not appear anywhere within Showghi.

In currently claimed embodiments, because it is not necessarily likely that a desired item is available, ***checking inventory*** allows "customers and merchants to quickly and automatically carry out the offer, acceptance, and delivery sequence for goods and services" (Applicants' specification, pg. 23, lines 1-3). For example, the process is quick and automatic at least in part because any inventory problems are quickly identified and resolved by ***checking inventory***.

Second, even if Showghi were interpreted as describing ***checking inventory*** (which interpretation Applicants do not agree with), no inventory is checked by Showghi *based on the customer's private data*. As described above (under sub-heading 'b'), Showghi does not even describe *receiving a customer's private data*. Showghi can not check inventory based on information that it does not describe as being present in the Showghi system.

Thus, Applicants respectfully assert that Showghi fails to anticipate embodiments as recited in amended claim 1 at least because Showghi fails to teach or suggest ***checking inventory*** at all, much less doing so *based on the customer's private data*. Accordingly, Applicants respectfully request that the §102(e) rejection of amended claim 1 be withdrawn.

Further, Applicants respectfully assert that there is simply no suggestion or motivation in Showghi to amend or alter Showghi to provide the claimed feature of ***checking inventory, based on the customer's private data, for goods***.

## **2. Independent Claims 9, 13, 15, 17, and 21**

Applicants respectfully assert that each of the independent claims 9, 13, 15, 17, and 21 are patentable at least for reasons similar to those previously presented in conjunction with amended claim 1. In other words, each of the independent claims 9, 13, 15, 17, and 21 includes either or both limitations of (1) *receiving a customer's private data from a customer database that is stored on a communication device associated with a customer* and, (2) *checking inventory, based on the customer's private data, for goods*, which limitation are not be taught, suggested, or rendered obvious by Showghi. Accordingly, Applicants respectfully request that the §102(e) rejection of independent claims 9, 13, 15, 17, and 21 be withdrawn.

## **3. Dependent Claims 2-6, 14, 16, 18, and 22**

Applicants respectfully assert that each of the dependent claims 2-6, 14, 16, 18, and 22 are patentable at least because they depend from patentable base claims (claims 1, 13, 15, 17, and 21), and at least for reasons similar to those previously presented in conjunction with amended claim 1. Applicants respectfully request that the §102(e) rejection of dependent claims 2-6, 14, 16, 18, and 22 be withdrawn.

### ***C. 35 U.S.C. §103(a) Rejections***

Claims 6 and 7 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Showghi in view of Treyz; claim 8 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Showghi in view of Henrick; and claims 11, 12, 19, and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Showghi. Applicants respectfully traverse these rejections as follows.

Treyz generally describes a system and method "that allows users with handheld computing devices to obtain information using local and remote wireless links. Handheld computing devices may also be used to order products and services" (Col. 1, lines 41-44). These handheld devices may also be used for wireless communications including e-mail, as e-tickets for travel services, for retrieving product information, shopping services, maps and directions, recipes, logos, advertisements, and for compiling shopping lists and tracking financial transaction data (Col. 1 - Col. 4).

Henrick generally describes a system and method "that facilitates the purchase of audio and video content (e.g., entertainment media) over the Internet" (Abstract). Henrick "allows a user who hears or sees an audio or video broadcast to use a cell phone or other wireless device to order the broadcast material, and have it remotely delivered to an independent device" (Col. 1, lines 63-67).

Applicants respectfully assert that the combination of Showghi with either Treyz or Henrick fails to teach, suggest, or render obvious elements of claimed embodiments. In particular, as discussed above (under heading 'B'), Showghi fails to teach or suggest at least (1) *receiving a customer's private data from a customer database that is stored on a communication device associated with a customer* and, (2) *checking inventory, based on the customer's private data, for goods*.

Neither Treyz nor Henrick make up for the deficiencies of Showghi. Neither reference teaches or suggests either of the above-listed limitations.

Treyz does describe maintaining financial records for payment transactions (Col. 66, lines 11-17). However, Treyz only describes using such data to generate financial reports for a user (Col. 66, lines 18-20). Nowhere does Treyz describe *receiving a customer's private data from a customer database that is stored on a communication device associated with a customer*.

Regarding *checking inventory, based on the customer's private data, for goods*, Treyz simply does not address doing anything with inventory in any fashion.

Henrick is directed to selling audio and video broadcasts (Abstract). Audio and video broadcasts that are digitally recorded and/or downloaded as in Henrick do not have "inventory" levels. If another unit is required or requested, another copy is created and sold. In other words, such items can never be "out of stock". Thus, Henrick does not teach or suggest *checking inventory for goods*, because there is no need in Henrick to check inventory.

Further, regarding the limitation of *receiving a customer's private data from a customer database that is stored on a communication device associated with a customer*, Henrick simply does not describe the use of a *customer's private data*, and does not describe the user of a *customer database* at all.

Applicants respectfully assert that no combination of any of the cited references teaches, suggests, or renders obvious embodiments of claims 6-8, 11, 12, 19, and 20. Further, Applicants respectfully assert that there is simply no motivation in any reference to amend any other

reference to provide the claimed features of (1) *receiving a customer's private data from a customer database that is stored on a communication device associated with a customer* and, (2) *checking inventory, based on the customer's private data, for goods*.

***D. Newly Presented Claim 23***

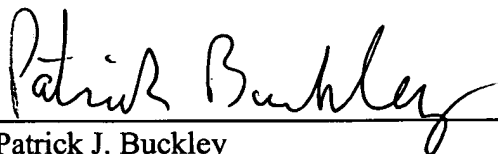
Newly presented independent claim 23 is supported in the specification at least at pg. 9, lines 10-12, and last paragraph, and in the claims as originally filed. Applicants respectfully assert that new claim 23 is patentable at least for reasons similar to those previously presented in conjunction with amended claim 1. In particular, claim 23 is patentable at least because none of the cited references, either alone or in combination, teach, suggest, or render obvious the limitations of (1) *receiving, at a server associated with a merchant, data concerning goods previously bought by a customer, said data being received from a customer database on a communication device associated with said customer*, or (2) *checking inventory for goods, said checking based at least in part on said received data*.

***II. Conclusion***

Accordingly, Applicants respectfully assert that each of the newly presented claims is patentable over the cited references. Applicants' silence with respect to other comments made in the Office Action does not imply agreement with those comments. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at 203-972-0191.

Respectfully submitted,

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